

This letter discusses the use of dyed diesel fuel in "trailer jockeys." See 35 ILCS 505/1 et seq. (This is a GIL.)

September 24, 2001

Dear Xxxxx:

This letter is in response to your letter dated July 23, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

The AAA operates between CITY1, IL and CITY/STATE and is a subsidiary of COMPANY, a holding company that owns BBB.

The AAA purchases 'off-road' dyed locomotive fuel, which is delivered into our storage tanks and used solely to fuel our locomotives.

Adjacent and connected to our fueling facility in CITY, AAA operates an intermodal transloading and transfer facility for containers and trailers being placed on or removed from railroad cars. A railroad intermodal operation uses a specialized truck-tractor 'Trailer Jockey' to lift truck containers on and off flatbed railcars. These trailer jockeys are similarly used in intermodal operations all over the United States and Canada.

These trailer jockeys are not built for use on public highways and are used entirely in-plant at AAA's intermodal facility. When any of these units need repair work, a mechanic will work on the trailer jockey on-site at our facility. If the repair work is required to be performed off-site, the units are towed to the repair shop.

In our efforts to operate our railroads and intermodal facilities in the most cost efficient basis as possible, we would like to utilize 'off-road' dyed diesel fuel, such as we purchase for locomotive use, to fuel these units.

Inasmuch as these unlicensed work units are exclusively used off-road in our intermodal yard, AAA requests a Letter of Ruling granting the AAA permission to use the same dyed fuel which is stored in our tanks on-site for both intermodal trailer jockeys and locomotives.

We appreciate your consideration and request your letter of ruling at your earliest convenience.

Under the Motor Fuel Tax Law, "a tax is imposed on the privilege of operating motor vehicles upon the public highways and recreational-type watercraft upon the waters of this State." 35 ILCS 505/2.

Beginning January 1, 2000 the State of Illinois implemented a dyed diesel fuel program. (See Public Act 91-173.) Under this program, all special fuel, including diesel fuel, sold or used for non-highway purposes must have a dye added in accordance with Section 4d of the Motor Fuel Tax Law. Diesel fuel used on the highway must not contain dye.

Dyed diesel fuel is sold for non-highway purposes free of Motor Fuel Tax. Therefore, it may not be used in motor vehicles operating upon the public highways or in recreational-type watercraft operating upon the waters of this State. Section 15, item 15 of the Motor Fuel Tax Law imposes a penalty on the operator if a motor vehicle required to be registered for highway purposes is found to have dyed diesel fuel within the ordinary fuel tanks attached to the motor vehicle.

However, dyed diesel fuel may be used in motor vehicles that are used entirely off road and that are not required to be registered for highway purposes. If this is the case with the trailer jockeys described, then dyed diesel fuel may be used.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk